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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,991	01/26/2004	Samuel M. Shaolian	ENDOLOG.21CP7C1	6781
20995 - 7590 01/18/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER PREBILIC, PAUL B	
			ART UNIT 3738	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		01/18/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/18/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,991	SHAOLIAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Paul B. Prebilic	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,34-39 and 42-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,34-39 and 42-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Claim Objections***

Claims 42 and 52-53 are objected to because of the following informalities:

In claim 42, on line 11 and claim 52, on line 2, "the main body support section" lacks antecedent basis. There is no period after claim 53. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 34-37, 39, 42-46, 51, and 52-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Thornton et al (US 6,551,350).

With regard to claim 1, 34-37, 39, 51, and 52, Thornton anticipates the claim language where:

- the main body support structure as claimed is made up of segments (742), (744), and (746) of Thornton (see Figure 15);
- the first branch support structure as claimed is the leg component (730);
- the second branch as claimed is the proximal section (748);
- segment (746) has about 7 proximal bends per turn shown with 13 turns or 91 total bends and the other segment (dual segment (742) and (744))

has about 14 bends shown per turn with 8 turns or 112 total turns; see Figures 15 and 16 as well as column 17, line 20 et seq.

With regard to claims 34 and 35, the sheath as claimed is the restraining member (722) that can be made into a tubular form for delivery and made of PTFE; see Figures 28A to 28C and column 9 lines 23-36.

With regard to claim 52, segment (746) has about 7 proximal bends per turn shown with 13 total or 91 total bends and the other segment (dual segment (742) and (744)) has about 14 bends shown per turn with 8 turns total or 112 total turns. Therefore, the ratio of 91 bends to 112 bends is an 81% ratio such that the claimed range of about 50% to about 80% is fully met.

With regard to claims 42-46 and 53-54, Thornton anticipates the claim language with a different interpretation where:

- the main body support section is the main body component (700) of Thornton;
- the distal end as claimed is the distal end (702) of Thornton and has about 14 bends shown per segment;
- the proximal end as claimed is the end at (706) of Thornton and has about 7 bends per segment; see Figures 15 and 16 and column 17, line 20 et seq.

With regard to claim 44, the sleeve as claimed is the restraining member (722) that is in a tubular form during delivery; see Figures 28A to 28C.

With regard to claim 45, the lateral perfusion port reads on one of the eyelets of holes (116, 118) of Thornton.

With regard to claim 54, the change of bends goes from about 14 to about 7 from the distal end (702) to the other end (706) such that the last segment is 50% of the first.

Claims 1, 34-39 and 42-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Douglas et al (US 2002/0165602). Douglas anticipates the claim language where:

- the main body support structure is Section A of Douglas;
- the first branch is Section B
- the second branch is Section C
- the segments as claimed are segments 1 to 5;
- the number of bends varies as taught by paragraph 63, first three sentences thereof; see Figures 1, 3, and 6 and paragraphs 79, 80, 49, 50, 52 and 83. In addition, claims 9 and 25 of Douglas disclose limitations of the present dependent claims.

With regard to claims 34 and 35, Applicant is directed to paragraph 64 and claim 11 of Douglas.

With regard to claim 46, Applicant is directed to paragraph 62.

With regard to claim 51, the distal end as claimed is the proximal end (55) of Douglas.

With regard to claim 52, paragraph 63 teaches adding 3 proximal bends to the end segment so that would increase it from 6 to 9. Therefore, one end of Section A

would have 9 proximal bends and the other would have 6 proximal bends. For this reason, the claimed relationship is met by  $6/9 \times 100\% = 67\%$ .

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The arguments with respect to Douglas have been addressed in the rejection utilizing Douglas.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The newly cited art teaches that varying the number of struts per section of a stent was known to the art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP 2163.06 for interpreting claims, it is noted that other art may be applicable under 35 USC 102 or 35 USC 103(a) once the aforementioned issue(s) is/are addressed.

Applicant is respectfully requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is respectfully requested in response to this Office action if the application is not stored in image format (i.e. the IFW system) or published.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Paul B. Prebilio whose telephone number is (571) 272-4758. He can normally be reached on 6:30-5:00 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Prebilio  
Primary Examiner  
Art Unit 3738